

**IN THE UNITED STATES DISTRICT COURT  
FOR THE WESTERN DISTRICT OF PENNSYLVANIA**

KORDEV LLC,

Plaintiff,

v.

EAGLE HEMP, LLC and TRIM LIFE LABS,  
LLC,

Defendants.

ELECTRONICALLY FILED

Civil Action No. 2:21-cv-01341

**DEFENDANTS' RESPONSE TO THE COURT'S JANUARY 13, 2023 ORDER**

The parties met and conferred in response to the Court's January 13, 2023 Order (ECF No. 57) related to KorDev's motion for partial summary judgment (ECF No 54). Defendants consider KorDev's Motion to be premature, inappropriate, and inefficient.

First, as the Court noted, the timing of Plaintiff's motion is extraordinary, particularly since Defendants have not even answered the complaint. Plaintiff's position appears to be that the purpose of Rule 56 is to determine facts at issue, but Rule 56 is not a discovery device. Plaintiff maintains that KorDev is in the dark as to disputed facts and that Defendants can raise any disputed issues and discovery needs in response to the motion by submitting an affidavit. Defendants certainly believe that KorDev knows the disputed facts, even if its counsel may not. But there are already mechanisms in place for KorDev to learn Defendants' defenses and the disputed issues of fact—an answer to the complaint and discovery. Plaintiff should not be permitted to inefficiently seek to evade its discovery obligations—such as a deposition of its principal and production of all relevant documents—by forcing Defendants to make the obvious Rule 56(d) argument.

Second, Defendants will require significant discovery. There are at least five contracts spanning a several-month course of dealing leading up to the termination of the Master Services

Agreement (“MSA”). At a minimum, Defendants intend to dispute the quality and sufficiency of KorDev’s services that resulted in a material breach of the MSA by KorDev. Additionally, Defendants are entitled to discovery with regard to Plaintiff’s claim that Defendants failed to give adequate notice or that written notice was required under the circumstances here in light of Plaintiff’s material breach. Defendants also intend to investigate fraudulent activity related to representations of Well Being’s assets, KorDev’s experience and resources to provide the contracted services, and fraudulent transactions in KorDev’s software or otherwise. Defendants will require discovery into these issues and others.

Third, Defendants’ motion to dismiss the Amended Complaint (in part) remains pending as to the purported claim against Trim Life. (ECF No. 29) KorDev was provided an opportunity to cure its pleading deficiencies concerning Trim Life, and Defendants believe that KorDev failed to do so.

Accordingly, because Plaintiff’s motion is both premature and inappropriate, Defendants respectfully request that the Court defer proceeding on Plaintiff’s motion for partial summary judgment until the close of discovery.

DATE: January 17, 2023

Respectfully submitted,

/s/ John K. Gisleson

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*Counsel for Defendants, Eagle Hemp, LLC and  
Trim Life Labs, LLC*

**CERTIFICATE OF SERVICE**

I hereby certify that on this 17th day of January, 2023, a true and correct copy of the foregoing **Defendants' Response to the Court's January 13, 2023 Order** was electronically filed with the Clerk of Court for the Western District of Pennsylvania using the Court's CM/ECF Court Filing system, which will send notification of such filing to all registered counsel of record.

/s/ John K. Gisleson  
John K. Gisleson